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THE REPUBLIC OF CHINA ON TAIWAN: A SELECTIVELY ANNOTATED BIBLIOGRAPHY OF ENGLISH-LANGUAGE LEGAL MATERIALS

Constance Axinn Johnson

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PREFACE

This annotated bibliography lists English-language materials about the law of the Republic of China (ROC) published between 1965 and 1986. The year 1965 was chosen as a starting point because many key articles and monographs published earlier are described in Lin Fu-shun's work, Chinese Law Past and Present: A Bibliography of Enactments and Commentaries in English Text, published by the East Asian Institute of Columbia University in New York in 1966 (Library of Congress call number: LAW CHINA 7 Lin F 1966). Articles on Chinese legal history published after 1965 are included only if they pertain to the history of laws now in effect in Taiwan. In addition to works on Chinese law, items about Taiwan's international status and the effect of the recognition by the United States of the People's Republic of China (PRC) are included. For the most part, newspaper articles and items reprinted by the Foreign Broadcast Information Service have not been listed, with the exception of some recent major stories, such as the decision to lift martial law. East Asian Executive Reports articles have been listed selectively, with an emphasis on recent items.

The bibliography is arranged alphabetically, with a topical index that cross references articles and books under more than one subject heading where appropriate. A list of legal texts in English translation is appended.

The following printed sources were consulted in compiling this bibliography: Current Law Index, Humanities Index, Index to Legal Periodicals, Index to Foreign Legal Periodicals, National Legal Bibliography, 1984 and 1985, Public Affairs Information Service, and the Social Science Index. Charles Szladits's bibliographies of foreign and comparative law were used

through 1977, the last year for which a country index was available. In addition, use was made of the computerized catalogs of the Library of Congress. Most of the titles listed are available in the Library of Congress and may be retrieved by reference to the call number included with each entry. Those beginning with LAW or in classes K and JX, with the exception of JX1304-1999, are in the Law Library's collection. LLFE refers to the reference collection of the Far Eastern Law Division. Other materials may be obtained through either the Library of Congress Main Reading Room or its Newspaper and Current Periodical Reading Room.

The compiler gratefully acknowledges the assistance of Dr. Tao-tai Hsia, the Chief of the Far Eastern Law Division, and Dr. Chun Li of the Coordination Council for North American Affairs. Mr. Francis S.L. Wang, of Wang and Wang, Attorneys at Law, San Francisco, California, was kind enough to permit the listing of his unpublished work on ROC law (see item 335).

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   Analysis of human rights situation; covers political prisoners, torture, capital punishment. Summary of Amnesty International actions.

4. ----- ----- London, Amnesty International Publications, 1980. 15 p. HV9827.A47 1980

5. Anti-smuggling law revised to curb trade with PRC. CNA News Service, June 15, 1985. Foreign Broadcast Information Service, Daily report: China, June 18, 1985, no. 117, p. V2. Microfiche DS701

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   Primarily concerned with dynastic periods; brief discussion of law in the Republic before 1949.

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9. ----- From this corner: the company law impacts on foreign investment. 2 East Asian executive reports 12-15 (July 1980). LAW PER

10. ----- Taiwan embarks on major customs reform. 2 East Asian executive reports 13-14 (Feb. 1980). LAW PER

11. Bueler, William M. Taiwan: a problem of international law or politics? 27 World today 256-266 (1971). D410.W63

12. Buxbaum, David C. ed. Chinese family law and social change in historical and comparative perspective. Seattle, University of Washington Press, 1978. 553 p. LAW CHINA 7 Buxb 1978 LLFE

Essays covering traditicnal China from the Han dynasty forward, including marriage, divorce, and household composition in Taiwan, and marriage in the PRC, with comparisons to India and Indonesia.

13. Cabinet on freedom of speech. CNA News Service, Mar. 3, 1986. Joint Publications Research Service, China report: political, sociological, and military affairs, Mar. 17, 1986, no. 026, p. 117. Microfiche 1011

Executive Yüan states the government has shown respect for freedom of speech. The then current restrictions on publications, it was argued , were in accordance with martial law and were needed to check infiltration of "communist thoughts and their cultural pollution."

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Executive Yuan states it is still inappropriate to enact a provincial and county self-government law because the nation remains in an extra-ordinary situation with much of China "still occupied by the Chinese communists."

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16. Ceguera, S.C. Question of Chinese representation. 14 Far Eastern law review 225-235 (1967). LAW PER

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Reviews history of relations between the International Olympic Committee and athletics committees in the PRC and Taiwan, including China's insistence that Taiwan no longer be allowed to use the ROC flag at the games, Taiwan's legal challenge, and the eventual use of the "Chinese Taipei" designation for participants from Taiwan.

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Views marriage as one kind of relationship in the context of the political and legal systems of the two countries.

26. ----- Taiwan Relations Act: legislative re-recognition of Taiwan after de-recognition. 11 National Taiwan University law journal 87-96 (Dec. 1981). LAW PER

27. Chen, Chi-sen. Laws governing the settlement of labor disputes in the Republic of China. In Private investments and international transactions, Asian and South Pacific countries. New York, Matthew Bender, 1975. p. 479-492. HG5712.S98 1974
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Covers the issues of choice-of-law,. choice of jurisdiction, and

recognition and enforcement of foreign judgments, including arbitration awards. Describes the Conflict of Laws Act and compares it to Japanese law.

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Discusses the issue of UN representation.

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Text of speech given to International Law Society, November 1, 1984. Dr. Chien is the Representative, CCNAA.

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Bilingual text. Describes the Law of Audit and the role of the Ministry of Audit.

40. ----- A brief introduction to the court system of the Republic of China. Taipei, Supreme Court R.O.C., 1981. 15 p. LAW LLFE

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42. ----- A brief introduction to the Judicial Yüan of the Republic of China. Taipei, Judicial Yüan, 1981. 13 p. LAW LLFE

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Bilingual. Includes organizational chart.

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45. ----- Investor's guide: export processing zones in the Republic of China. Taipei, Ministry of Economic Affairs, 1975. 28 p. LAW LLFE

46. ----- A review of public administration: the Republic of China. Taipei, Executive Yüan, 1974. 90 p. LAW LLFE

47. ----- Taxation: Republic of China. Taipei, Ministry of Finance, 1973. 127 p. LAW CHINA 4 Taxation 1973
Introduction to tax structure and summary of tax laws and incentives for economic development as of December 1972.

48. ----- Taxes in Taiwan, Republic of China. Taipei, Industrial Development and Investment Center, 1981. 35 p. LAW CHINA 3 Tax 1981
Outline of various taxes. Organizational chart of the tax administration.

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Summary of points of law arranged alphabetically. Provided by prominent law firm Lee and Li. After 1981, titled Taiwan Law Digest.

52. Chinese yearbook of international law and affairs. Taipei, Chinese Society for International Law, (annual). JX18.C48a
Successor to the Annals of the Chinese Society for International Law. First volume dated 1981. Both publications contain summaries of judicial decisions concerned with international law, as well as lists of treaties and other international agreements. The Yearbook usually contains a list of countries maintaining diplomatic relations with the ROC, and includes addresses of embassies and informal offices of foreign countries in Taiwan and their equivalents representing the ROC overseas. Also has texts of agreements between the American Institute on Taiwan and the Coordination Council for North American Affairs. Includes bibliography, with most of the items in Chinese.

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Covers various aspects of normalization of US relations with the PRC, including legal questions related to the termination of treaties with the ROC, particularly the 1954 Mutual Defense Treaty. Also considers the international legal status of the island of Taiwan and the legal effect of the Japanese peace treaties. Argues that U.S. should not legally ignore the existence of the ROC government on Taiwan. Re-printed by Baltimore, Md., University of Maryland School of Law Occasional Papers/Reprints Series in Contemporary Asian Studies, 1979, 49 p. LAW LLFE

54. ----- Certain legal issues in Washington-Peking relations. In Chen, Frederick Tse-shyang, ed. China policy and national security. Dobbs Ferry, N.Y., Transnational, 1984. p. 198-212. JX1428.C6C47 1984
Covers domestic law issues including collection of information in each other's country, trade restrictions, and political asylum and international law issues centering on impact of Washington-Beijing relations on Taiwan.

55. ----- China and the question of territorial sea. 1 International trade law journal 29-77 (1975). K9.N893
Primarily concerned with the PRC position. Contains a section on the ROC views on territorial sea.

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Discusses Chinese laws on maritime borders under the Ch'ing and Republican governments.

57. ----- China, the United States, and the question of Taiwan. In Chiu, Hungdah, ed. China and the question of Taiwan: documents and analysis. New York, Praeger, 1973. p. 112-194. DS759.5.C47
Considers the international legal status of Taiwan. Many translated US, PRC, and ROC documents included.

58. ----- Chinese attitude toward continental shelf and its implication on delimiting seabed in Southeast Asia. Baltimore, University of Maryland School of Law Occasional Papers/Reprints Series in Contemporary Asian Studies, 1977. 32 p. LAW LLFE
Describes ROC stand on continental shelf and national boundaries at sea and compares them with US and PRC positions. Argues that neither ROC nor PRC has a strong claim to the mid-ocean seabed in the South China Sea.

59. ----- The international law of recognition and multi-system nations, with special reference to the Chinese (Mainland--Taiwan) case. 1 Chinese yearbook of international law and affairs 1-16 (1981). JX18.C48a
Includes list of countries maintaining diplomatic relations with the ROC in 1981, and a list of PRC statements on the use of force against Taiwan from 1979-1981. Argues that if the PRC adopted a more realistic and reasonable policy toward the ROC, its goal of reunification could be achieved.

60. ----- The international legal status of Taiwan. 15 Annals of the Chinese Society for International Law 14-19 (1978). JX18.C48a
Reviews status of Taiwan in light of the peace treaties with Japan. Supports ROC sovereign right to the island.

61. ----- Law and justice. In Hsiung, James C. et al., eds. Contemporary Republic of China, the Taiwan experience. New York, American Association for Chinese Studies, 1981. p. 283-337. DS799.8.T3377 1981
This essay covers the history of law and government of the ROC on the Mainland before 1949, the criminal code, procedures, courts, and police on Taiwan from 1950-1965, as well as the system of justice since 1966 under the Status of Forces Agreement with the US. Publication of the volume was aided by a grant from the Pacific Cultural Foundation; it consists largely of reprints of articles from other sources.

62. Chiu, Hungdah. Legal development in the Republic of China 1949-1981. In Chiu, Hungdah and Shao-chuan Leng, ed. China seventy years after the 1911 Hsin-hai revolution. Charlottesville, University Press of Virginia, 1984. p. 287-330. DS777.55.C44855 1984

Describes formation of current legal order, promulgation of the 1947 Constitution, legal education, the legal profession, administration of justice, the temporary provisions of the Constitution, martial law, and other aspects of the legal system.

63. ----- The position of international law in Chinese law. 3 Annals of the Chinese Society for International Law 88-97 (1966). JX18.C48a

Describes statutory provisions on the position of international law in Chinese law. Discusses the relationship between municipal law, customary international law, and treaties. Refers to specific judicial decisions.

64. ----- The question of Taiwan in Sino-American relations. In Chiu, Hungdah, ed. China and the Taiwan issue. New York, Praeger, 1979. p. 147- 211. DS799.5.C467

Reviews history of Taiwan since 1661, with particular attention to the question of UN status, the peace settlement with Japan, the 1954 and 1958 crises in the Taiwan straits, and the events leading up to President Carter's December 1978 announcement of normalization of relations with Mainland China.

65. ----- Some problems concerning the delimitation of the maritime boundary between the Republic of China (Taiwan) and the Philippines. 14 Ocean development and international law journal 79-105 (Winter 1984). JX1.025

Reviews how the 1982 UN Convention of the Law of the Sea applies to the boundary in the Bashi Channel and to the South China Sea. Also in 3 Chinese Yearbook of International Law and Affairs 1-21 (1983) [JX18.C48a].

66. ----- and Jyh-pin Fa. The legal system of the ROC in Taiwan. In 2 Modern legal systems cyclopedia. Buffalo, N.Y., William S. Hein, 1984. p. 605-691. K530.M621984

Detailed survey of the legal system in outline form, containing bibliography. Covers history, traditional law and law reforms of the early 20th century, government structure, lawmaking process, the judicial system, legal education and the bar, and the administration of justice. Contains special section on choice-of-law rules by Chin Kim and a guide to international trade and investment law.

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Covers dynastic, ROC, and PRC regimes. Uses specific cases to illustrate procedures.

68. Chow, H.T. On income tax administration. 24 Industry of free China 2-18 (Oct. 1965). Uncataloged

69. Chow, L.P. Abortion in Taiwan. In Hall, R.E., ed. Abortion in a changing world. New York, Columbia U. Press, 1970. p. 251-259. HQ767.A18

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Compares tax concessions and law on the protection of foreign property in the two countries. Includes summary tables.

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74. Cima, Ronald P. Unilateral termination of the 1954 Mutual Defense Treaty between the United States and the Republic of China pursuant to the president's foreign relations power. 12 Vanderbilt journal of transnational law 133-163 (Winter 1979). JX1.V35

75. Clinton, William J. The offshore banking law and the foreign investor. 7 East Asian executive reports 9, 26-28 (July 1985). LAW PER

76. Clough, Ralph N. Taiwan's international status. 1 Chinese yearbook of international law and affairs 17-34 (1981). JX1.C48a
Concludes that "Taiwan could go its own way, enjoying most, though not all, of the advantages of a separate fully-recognized sovereign state....ambiguity may be preferable to attempts to impose order... when those attempts intensify tension and conflict."

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Part of panel discussion at the 65th Annual Meeting of the

American Society of International Law. Discussants' comments also published. Argues that US should welcome PRC to the UN and not support dual representation of Peking and Taipei.

78. Commentary denies existence of martial law. Taipei International Service, Dec. 4, 1985. Foreign Broadcast Information Service, Daily report: China, Dec. 6, 1985, no. 235, p. V3-V4. Microfiche DS701

79. Comparison of the sales tax systems in some Asian countries. Manila, National Tax Research Center, 1973. 65 p. HJ5715.A73P48 1973

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82. ----- with George P. Chen. Political development and democratization in the Republic of China. Baltimore, University of Maryland School of Law Occasional Papers/Reprints Series in Contemporary Asian Studies, 1980. 180 p. JQ1539.A.15C66 1984

Considers the ROC a successful democracy and describes elections in the 1980s. Discusses constitutional and other provisions affecting elections, including the Public Officials Election and Recall Law of 1980. Text of that law appended.

83. Copyright protection. CNA News Service, Dec. 11, 1985. Joint Publications Research Service, China report: political, sociological, and military affairs, Jan. 20, 1986, no. 009, p. 121. Microfiche 1011

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LAW CHINA 7 Cosway 1973

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86. Court issues indictments in Henry Liu murder. Taipei Domestic Service, Feb. 26, 1985. Foreign Broadcast Information Service, Daily report: China, Feb. 27, 1985, no. 039, p. V1-V3. Microfiche DS701
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87. Crawford, James. Decisions of British courts during 1981 involving questions of public or private international law: public international law. 52 British yearbook of international law 301-319 (1981). JX21.B7
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89. ----- 4 Lawasia 208-232 (1973). K12.A926

90. Dai, P. Canada and the two-China formula at the United Nations. 5 Canadian yearbook of international law 217 (1967). JX21.C3

91. Defense minister defends martial law to Yüan. Chung yang jih pao (Taipei), Sept. 25, 1986, p. 1. Foreign Broadcast Information Service, Daily report: China, Oct. 3, 1986, no. 192, p. V6-V7. Microfiche DS701
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92. de Lasson, A. Decision making process in the farmer's association in Taiwan. 10 Verfassung und Recht in Übersee 269-288 (1977). LAW PER

93. Dellapenna, Joseph W. and Ar-young Wang. A proposed fishery conservation and management act for the Republic of China. 5 Fordham international law journal 35-89 (Winter 1981-82). JX1.F57
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94. ----- Protecting the Republic of China from oil pollution in the sea: accounting for damages from oil spills. 19 Texas international law journal 115-138 (1984). JX1.T48

95. ----- The Republic of China's claims relating to the territorial sea, continental shelf, and exclusive economic zones--legal and economic aspects. 3 Boston College international and comparative law journal 353-376 (Summer 1980). K2.077

96. Demonstrations, protests "may violate" law. China post, Oct. 12, 1986, p. 8. Foreign Broadcast Information Service, Daily report: China, Oct. 16, 1986, no. 200, p. V2-V3. Microfiche DS70

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98. ----- Taiwan (Formosa). In Foreign tax and trade briefs: international withholding tax treaty guide. New York, Matthew Bender, (1951-) (loose-leaf).
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99. ----- and Dorothy B. Diamond. Taiwan. In 1 Capital formation and investment incentives around the world. New York, Matthew Bender, (1981-) (loose-leaf).
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100. Executive Yüan on abuse of freedom of press. China post, Sept. 21, 1986, p. 8. Foreign Broadcast Information Service, Daily report: China, Sept. 25, 1986, no. 186, p. V2-V3. Microfiche DS701

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102. ----- The development of human rights in the Republic of China: 1971-1981. 1 Chinese yearbook of international law and affairs 125-133 (1981).
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105. ----- The 1982 amendments to the code of criminal procedure of the Republic of China. 2 Chinese yearbook of international law and affairs 177-191 (1982). JX18.C48a
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127. ----- An opportunity for joint venturing (Taiwan). 57 Law Institute journal 1100-1101 (Oct. 1983). LAW PER

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will reduce the role of the unregulated money market, raise accounting standards, and in general rationalize the financial system.

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Republic of China. Under legal aspects, covers international status of Taiwan. The human rights chapter compares ROC and PRC and concludes that even with martial law, the ROC has more freedom. Book as a whole argues that recognition of the Peking regime was an error in US policy.

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190. Ko, Mu-shing. Social insurance in the Republic of China. 22 International social security review 258-263 (1969). HD7090.I6662

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Author was Medical Superintendent of Provincial Kaohsiung Mental Hospital and Senior Lecturer in Psychiatry of Kaohsiung Medical College. States that courts have been applying psychiatric assessments more frequently in recent years. Discusses concepts of lost and diminished mental capacity and briefly compares treatment of mental disorders in Western and ROC legal systems.

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Extraterritoriality was abolished in China in the 1940s, but a problem was created by the stationing of US armed forces in Taiwan in the 1950s. Author describes the Status of Forces Agreement of 1965 and its provisions for the application of US military justice to American soldiers. Also discusses relevant ROC government organs--the Ministry of Foreign Affairs, the police department, and the courts. Through an analysis of cases comes to the conclusion that foreigners in general receive "national treatment" but encounter leniency in criminal cases.

200. Li, K.T. Latest tax measures to accelerate economic development. 52 Industry of free China 2-8 (Sept. 1979). Uncataloged

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Considers how ties can be maintained without recognition.

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